

Rev. Rul. 82-153, I.R.B. 1982-35, 6.

Advice has been requested (1) whether an individual may roll over certain distributions into an individual retirement account (IRA), as described in section 408 of the Internal Revenue Code, during a year after the taxable year in which the individual attains age 70 1/2; and (2) if such a rollover is permitted, what amounts must be distributed from the IRA in the year of the rollover and in subsequent years.

A was an unmarried male participant in a noncontributory retirement plan meeting the requirements of section 401(a) of the Code. Upon attaining the age of 72 on May 17, 1979, A separated from the service of the employer and received the balance to the credit of A's account, \$25,000, in a qualifying rollover distribution within the meaning of section 402(a)(5)(D)(i). The following month A rolled over the entire distribution received into a new IRA. This was the first such account established by A, and it provided that the amounts in the IRA would be distributed over the balance of A's lifetime. A has a calendar tax year.

Section 219(b)(3) of the Code states that no deduction is allowed under section 219(a) with respect to any contribution to an IRA which is made during the taxable year of an individual who has attained age 70 1/2 before the close of such taxable year.

Section 219(b)(4) of the Code provides that no deduction is to be allowed under section 219 for a rollover contribution described in section 402(a)(5).

Section 402(a)(5)(A) of the Code provides that if the balance to the credit of an employee in a qualified trust is paid to the employee in a qualifying rollover distribution; the employee transfers any portion of the property received to an eligible retirement plan; and, in the case of a distribution other than money, the amount transferred consists of the property distributed, then the distribution (to the extent transferred) is not includible in gross income for the taxable year in which paid. Section 402(a)(5)(C) adds further that section 402(a)(5)(A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

An "eligible retirement plan", as referred to in section 402(a)(5)(A) of the Code and defined in section 402(a)(5)(D)(iv), includes an individual retirement account described in section 408(a).

Section 408(a)(6) of the Code states that distribution of the entire interest of the individual for whose benefit an IRA trust is maintained must begin by the close of the taxable year in which the individual attains age 70 1/2. Payment may be made in a lump sum, or it may extend over the life of the individual or the lives of such individual and his or her spouse, or over a period certain not exceeding the life expectancy of the individual or of the individual and his or her spouse.

Section 1.408-2(b)(6)(v) of the Income Tax Regulations provides that if an individual's entire interest in an IRA is to be distributed over a certain period not exceeding the life expectancy of the individual, beginning in the year the individual attains age 70 1/2, the amount to be distributed each year must not be less than the lesser of two amounts. One such amount is the balance of the individual's entire interest in the IRA. Alternatively, the amount to be distributed each year may be that which is equal to the quotient obtained by dividing the entire interest of the individual in the trust at the beginning of such year by the life expectancy of the individual as of the date the individual attains age 70, reduced by one for each taxable year commencing after the individual attains age 70 1/2. In this computation, the life expectancy is to be determined in accordance with section 1.408-2(b)(6)(iv).

Although A may neither claim a deduction for a contribution described in section 219 of the Code nor take a deduction for amounts rolled over into an IRA, nothing in the Code prohibits A from making a rollover contribution (and, thus, deferring taxation on the amounts rolled over) merely because A has attained age 70 1/2 .

After the rollover, however, A must comply with the distribution requirements set forth in section 408(a)(6) of the Code and section 1.408-2 of the regulations, as applied below.

Based on section 1.408-2 of the regulations, the required distributions from the account of a person who has had a rollover into an IRA after attaining age 70 1/2 are computed as follows. The initial distribution, for the year of the rollover, must be at least equal to the lesser of: (1) the balance in the account, or (2) the entire amount rolled over, divided by the individual's life expectancy at age 70, reduced by one for each taxable year commencing after the individual's attainment of age 70 1/2 . The same computation method is followed in subsequent taxable years, except that the numerator to be used after the year of the rollover is the account balance (including any accumulations) in the IRA, determined at the beginning of the taxable year, rather than the "entire amount rolled over."

A rolled over \$25,000 into the IRA in 1979, shortly after attaining age 72. A became 70 1/2 in November of 1977, so two taxable years had commenced between the date and the date of the rollover. Thus, A's initial required distribution for 1979 is computed to be the entire amount rolled over, \$25,000, divided by 10.1 (A's life expectancy at age 70, 12.1, reduced by the number of taxable years commencing after attainment of age 70 1/2 , 2) for a total of \$2,475. A's minimum required distribution in 1980 will be computed by dividing the balance in A's IRA on January 1, 1980, by 9.1 (12.1 reduced by 3).

Accordingly, A is entitled to roll over the distribution, which meets the requirements of section 402(a)(5) of the Code, into an IRA during a taxable year

after than in which A attained age 70 1/2, and the minimum required distribution from the IRA in 1979 is \$2,475.